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EXAMINER

BECKER, SHAWN M

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/985,830

**Applicant(s)**

WEI, TSUNG-HSING

**Examiner**

Shawn M. Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 1, 1<sup>st</sup> paragraph; "a method of making users playing with E-mail in cyber space capably enjoy amusement and excitation derived from variant E-mail service of this present invention" should be --a method of making users playing with E-mail in cyber space capable of enjoying amusement and excitation derived from the variant E-mail service of this present invention--; page 1, last paragraph; "A player get into the game, just only need choose a designed role to play and use his smart finger and quick reaction. The player will never involve to design and set up the feature of any role in program" is a series of fragments and should be replaced with something along the lines of --For a player to get into the game, he/she need only to choose a designated role to play and use his/her smart finger and quick reaction. The player was never involved in designing and setting up the feature of any role in the program--.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

5. Regarding claim 1, the phrase "like in a software game" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "like in a software game"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

6. The term "vigorously" in line 17 of claim 1 is a relative term which renders the claim indefinite. The term "vigorously" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The level at which the user desires to make a friend cannot be tangibly measured, and it is unclear what consists of a vigorous wish to make a friend.

7. The term "almost near" in line 19 of claim 1 is a relative term which renders the claim indefinite. The term "almost near" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The claim is indefinite about what constitutes as being almost near to an idealized dream lover.

8. Furthermore, the meaning of "a cyber space of variant E-mail service more tangible and concrete as under real world" in lines 23-24 of claim 1 is unclear. What makes the E-mail service tangible and concrete is indefinite as is the level of tangibility and concreteness of the real world that must be exceeded.

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9. In line 27 of claim 1, "he/she" is an indefinite term and should be replaced with –the user—or –said user--.

10. The phrases "everything under the sun", "chat about all sorts of subjects", "have and intimate talk", and "talk love" in claim 1 are relative phrases which render the claim indefinite. The phrases "everything under the sun", "chat about all sorts of subjects", "have and intimate talk", and "talk love" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. These are ambiguous phrases that do not properly define the scope of the claim.

11. Furthermore, "to condole their spirits" is a phrase that is not properly defined and it is unclear as to what consists of condoling one's spirits.

12. The terms "fun", "excitation", and "exquisite" in claim 1 are relative terms which render the claim indefinite. The terms "fun" and "excitation" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. What is fun and what is exquisite for one person may not be fun or exquisite for another person; similarly, what excites one person may not excite another person. Therefore, these are relative terms that do not properly define the scope of the claim.

13. Lines 14-20 of claim 1 describe that the user is matched to either a pseudo-correspondent or dream lover (a relative term not defined by the claim or specification), but lines 29-33 only describe the user talking to a lover. Therefore, this section of the claim is indefinite, because a user may be matched to a pseudo-correspondent instead of a lover.

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14. Claim 1 recites the limitation "said user forbidden from meeting" in line 36. There is insufficient antecedent basis for this limitation in the claim. There is no previous description of forbidding the user from meeting the idealized lover or pseudo-correspondent.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,692,359 to Williams et al. (hereinafter Williams), U.S. Patent No. 5,884,272 to Walker et al. (hereinafter Walker) and U.S. Patent No. 5,500,700 to Massarsky.

Referring to claim 1, Williams teaches a variant E-mail service for creating amusement between users, which is to build a cyber space on E-mail environment, comprising steps of: registering as a new member to get a member account, if user of variant E-mail service is a new user (i.e. Williams at Fig. 2 and col. 3, lines 54-56);

entering requirements of pseudo-identity of said user, as an entry record of computer wherein said user changes one's identity to purposely perform any pseudo-character to whom said user wants to be in cyber space or pseudo-world, and enters pseudo-requirements of background (col. 1, line 52 – col. 3, line 9 and col. 3, line 61 – col. 4, line 44);

synthesizing a pseudo-image as said user's new appearance, which image is synthesized as an idealized human being in cyber space and may include the user's original photograph (col.

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4, line 19-30), and which new photograph must be shown and opened on variant E- mail service (col. 1, lines 59-61);

making pseudo-backgrounds and pseudo-appearances known between dream lovers (players/correspondents), whose backgrounds and appearances are shown and known to said user and said idealized dream lover or pseudo-correspondent to build a cyber space of variant E-mail service more tangible and concrete as under real world (i.e. col. 1, lines 59-61 and col. 5, lines 39-43);

Williams does not explicitly teach concealing one's original identity. However, Walker teaches an electronic communications method (similar to Williams) in which a user may desire to remain anonymous (conceal their original identity) (i.e. col. 1, lines 36-41, 65-66 and col. 3, lines 47-57). It would have been obvious to one of ordinary skill in the art to modify the method of interacting with other network users of Williams such that the users conceal their original identity as described in Walker in order to facilitate communication between cautious parties as taught in Williams (Williams at col. 2, lines 26-29 and col. 4, lines 10-13).

Although Williams describes creating a composite image and using a photograph of the user (col. 4, lines 19-25), Williams does not explicitly teach synthesizing the image as a combination of a photograph of the user's same-sex-idol and a photograph of the user. However, Massarsky teaches combining a user photograph with the photograph of a celebrity (user idol). See Massarsky at col. 3, lines 58-64. It would have been obvious to one of ordinary skill in the art to modify the method of creating a visual representation of the user in Williams to include combining a photograph of a user with a photograph of the user's idol as shown in Massarsky to allow the user to assume a desired identity as described in Williams (col. 4, line 23).

Williams teaches searching through users background to find a correspondent or other player (col. 3, lines 44-46 and col. 5, lines 36-41), but Williams does not explicitly teach entering requirements of pseudo-identity of an idealized dream lover or a pseudo-correspondent to be matched, as an entry record of computer to enter what conditions of an idealized dream lover or a pseudo-correspondent in cyber space vigorously wished to make friend. However, Walker teaches a method for entering such requirements (i.e. for a potential employee/correspondent) and matching a pseudo-correspondent by computer selection that is nearest to the idealized correspondent. See col. 7, lines 1-27. It would have been obvious to one of ordinary skill in the art to modify the method of finding players/correspondents/lovers in Williams such that users enter requirements for a pseudo-correspondent that are to be matched to an idealized pseudo-correspondent in order to optimally match players/pseudo-correspondents based on their interests and characteristics as taught by Walker.

Williams, Walker, and Massarsky, *supra*, teach starting on variant E-mail service for friend making in cyber space, whose E-mail address of said idealized dream lover or pseudo-correspondent is informed of to said user (i.e. Williams at col. 5, lines 63-65), and if said user is a registered user, he/she may directly go to this step into cyber space for friend making (i.e. Walker at col. 19, lines 14-50).

Williams, Walker, and Massarsky, *supra*, teach incoming and outgoing of epistolary correspondence in cyber space by variant E-mail service, wherein both of said user and said idealized lover matched can talk of everything under the sun, chat about all sorts of subjects, have an intimate talk or talk love in pseudo-world each other then to condole their spirits and



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derive fun and excitement from receiving or issuing pseudo-love-messages (i.e. Williams at col. 5, lines 63-65 and Walker at col. 19, lines 14-50).

Williams, Walker, and Massarsky, *supra*, teach continuing enjoying fun in cyber space of variant E-mail service, wherein said user can enjoy an exquisite memory with fun and excitement in cyber space due to said user forbidden from meeting said idealized lover or pseudo-correspondent in real world but in cyber space on variant E-mail service. See Walker at col. 2, lines 26-29, col. 4, lines 47-57, and col. 5, lines 10-14.

Referring to claims 2 and 6-7, the variant E-mail service of Williams, Walker, and Massarsky, *supra*, further comprises:

determining if the pseudo-identity imaginably played by said user was satisfied, wherein said user can go back to step of entering requirements of pseudo-identity again (including entering a new pseudo-identity), if not satisfied, to renew requirements of pseudo-identity in cyber space until the user is satisfied. See Williams at Fig. 6, which shows slider bars for updating a users pseudo-identity. Also, see Williams at Fig. 5, which shows an option to change a user name.

Referring to claim 3, the variant E-mail service of Williams, Walker, and Massarsky, *supra*, further comprises:

Determining if the user is satisfied with the synthesized pseudo-photograph, wherein said user can go back to the step of synthesizing a pseudo-photograph as said user's photograph again, if not satisfied, to renewably synthesize idealized pseudo-photograph of said pseudo-identity in

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cyber space until satisfied. See Williams at Fig. 4, 40, which show a button for changing an appearance (photograph).

Referring to claims 4 and 8, the variant E-mail service of Williams, Walker, and Massarsky, *supra*, further comprises:

determining if the user is satisfied with the idealized dream lover or pseudo-correspondent matched by computer's selection, wherein said user can go back to step of entering requirements of pseudo-identity of an idealized dream lover or a pseudo-correspondent to be matched again, if not satisfied, to reenter new requirements of pseudo-correspondent in cyber space until satisfied. See Walker col. 4, lines 27-33. Clearly the requestor may redefine the search criteria.

Referring to claim 5, the variant E-mail service of Williams, Walker, and Massarsky, *supra*, further comprises:

determining whether enjoying fun from cyber space of variant E-mail service, wherein said user can go back to the step of determining pseudo-identity imaginably played by said user whether satisfied again, if not enjoying fun, to reenter new requirements of pseudo-identity in cyber space until further satisfied. See Williams at Fig. 6, which shows slider bars for updating a users pseudo-identity. Also see Williams at Fig. 6, which shows an interface for updating a user identity.

### ***Conclusion***

17. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach

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methods of communicating in a cyber world, registering members, and creating character identities.

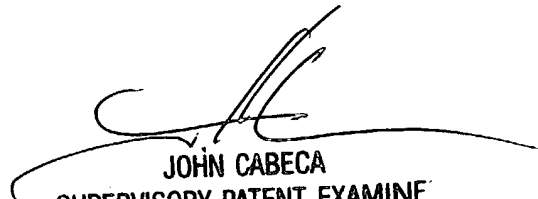
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is (703) 305-7756.

The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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